

**MEDICAL LICENSING BOARD OF INDIANA  
INDIANA GOVERNMENT CENTER SOUTH  
402 WEST WASHINGTON STREET  
ROOM W064  
INDIANAPOLIS, INDIANA 46204**

**MINUTES OF JULY 22, 2010**

Stephen Huddleston, J.D., President called the meeting to order at 9:45 a.m. and declared a quorum in accordance with IC 25-22.5.

Members Present: Stephen Huddleston, J.D., Consumer  
Member, President  
Robert Allen, M.D.  
Lynda Smirz, M.D.  
Worthe Holt, Jr., M.D.  
Bharat Barai, M.D., Vice President  
(arrived at 9:50a.m.)

Member Absent: Donald Vennekotter, M.D., Secretary

Staff Present: Kristen Kelley, Board Director  
Professional Licensing Agency  
Jody Edens, Assistant Board Director  
Professional Licensing Agency  
James Schmidt, Deputy Attorney General  
Office of the Attorney General

The Board voted to adopt the agenda as amended.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D.,  
Lynda Smirz, M.D., Worthe Holt, Jr., M.D.

Allen/Smirz, 4/0/0  
Motion carries

The Board voted to adopt the minutes of the June 24, 2010 meeting.

Holt/Smirz, 4/0/0  
Motion carries

The Board voted to adopt the amended minutes of the May 27, 2010 meeting.

Holt/Smirz, 4/0/0  
Motion carries

The Board moved to adopt the amendments to the April 28, 2005 minutes. Effectively taking out the following information listed under:  
D. Mark S. Weinberger, M.D. under Case Summary - delete the following:  
"He has been evicted from his office space in Martinsville. The landlord has not been able to locate any medical records and Respondent has not notified his patients of his new whereabouts. The State explained their attempts at notice. Service was made by overnight mail to the address of record and the state telephoned Dr. Hayes at the last known telephone number." This information belongs to another physician.

Smirz/Barai, 5/0/0  
Motion carries

### **PERSONAL APPEARANCES**

#### **INITIAL/RENEWAL APPLICANTS**

The following personal appearance was continued:

#### **Jennifer Whirley-Diaz, M.D.**

The following appeared before the full Board for their scheduled personal appearances and were sworn in under oath:

**Jaime Ayon, M.D.** – Dr. Ayon appeared before the Board regarding a waiver of the USMLE three (3) attempts rule and was represented by Counsel Brian Betner.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., Worthe Holt, Jr., M.D, Bharat Barai, M.D.

844 IAC 4-4.5-12(2) states: An applicant may have a maximum of three (3) attempts to pass each step of the USMLE. Therefore, upon the third seating of each step of the exam, the applicant must obtain a passing score.

Dr. Ayon passed step 1 of the USMLE on his 4th attempt.

After discussion the Board moved to GRANT the waiver of the three (3) attempts rule based upon the following:

- Appearance of Sara Edgerton, CEO Indiana Community Cancer Care. Ms. Edgerton informed the Board that ICCC has been recruiting for two (2) years to fill this position.
- Three (3) years employment agreement with Indiana Community Cancer Care (ICCC) serving in underserved areas of Indiana. Dr. Ayon will work with the Hope program which provides services to Rush and Shelby Counties, which have been designated as underserved.
- Dr. Ayon assured the Board he will fulfill his commitment to ICCC

- Ms. Edgerton agreed to send a letter to the Board yearly keeping the Board informed of Dr. Ayon's employment status and the fact that he is still serving in underserved areas of Indiana
- Board eligible
- Letters of recommendation from the following:
  1. Hesham Taha, M.D., FACP, MRCP(UK), Associate Chief Division of Hematology/Oncology, Fellowship Program Director in Oncology, Assistant Professor of Medicine State University of NY at Stony Brook
  2. Linda Carmosino, M.D., FACP
  3. Aloysius Cuyjet, M.D., MPH, FACC, FACP, Senior VP & Chief Health Equity Officer Nassau University Medical Center, Chairman-Institute for Healthcare Disparities, Professor of Clinical Medicine, SUNY at Stony Brook School of Medicine

Smirz/Allen, 5/0/0  
Motion carries

**Alfred Johnson, M.D.** – Dr. Johnson appeared before the Board regarding positive responses on his initial application for licensure and was represented by Counsel Gregory Gadson.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., Worthe Holt, Jr., M.D, Bharat Barai, M.D.

Dr. Johnson discussed his malpractice issues with the Board. He has paid out three actions since 2001.

Dr. Johnson explained the action that the State of Georgia took based upon his one malpractice settlement of \$350,000. The State of Georgia investigates any malpractice settlements over \$100,000. Georgia Board fined him \$3,000 and required him to obtain CME credits.

The State of Michigan issued him a censure and reprimand and included a \$100 fine based upon the Georgia action.

The State of New York gave him the option of paying a \$5,000 fine or appear for a hearing with legal counsel. After he consulted with his Attorney, Dr. Johnson chose to surrender his NY medical license.

Dr. Johnson also discussed his restrictions of hospital privileges at two (2) separate hospitals.

After discussion the Board moved to APPROVE Dr. Johnson's application for licensure.

Holt/Barai, 4/1/0 with Dr. Smirz objecting  
Motion carries

**Joseph Lopez, M.D.** – Dr. Lopez appeared before the Board regarding positive responses on his initial application for licensure and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., Worthe Holt, Jr., M.D, Bharat Barai, M.D.

After discussion, the Board moved to TABLE this matter for additional information. The Board requested that Dr. Lopez cause all four (4) hospitals in which he was suspended, to send a letter to the Board indicating the reason(s) why Dr. Lopez was suspended. The Board has also requested that Dr. Lopez obtain a letter from the employer in Lafayette that they are aware of those suspensions and they are still offering him employment.

Barai/Smirz, 5/0/0  
Motion carries

**Samuel Rajaratnam, M.D.** – Dr. Rajaratnam appeared before the Board regarding positive responses on his initial application for licensure and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., Worthe Holt, Jr., M.D, Bharat Barai, M.D.

The Board requested that Dr. Rajaratnam clear up his action in the State of California before they would consider his application for licensure.

Dr. Rajaratnam requested to withdraw his application for licensure.

After discussion the Board moved to APPROVE Dr. Rajaratnam's request to withdraw.

CONSENSUS  
Motion carries

**Joyce Zagursky, M.D.** – Dr. Zagursky appeared before the Board to request reinstatement of her Controlled Substances Registration (CSR).

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., Worthe Holt, Jr., M.D, Bharat Barai, M.D.

Dr. Zagursky's CSR was suspended by operation of law in 2007 due to her surrendering her DEA license.

The law states that they can apply for reinstatement of the suspended CSR with the Pharmacy Board. The Pharmacy Board is requesting the Medical Board's recommendation in this matter.

After discussion, the Board stated that they did not feel they could give a recommendation until they know what happened in Ohio and Pennsylvania.

Phil Wickizer, Pharmacy Board Director addressed the Board. He stated that the Pharmacy Board is willing to designate the Medical Board as the Administrative Law Judge. Once this is done, the Medical Board may set this for an ALJ hearing to obtain needed information. The Medical Board will then give their recommendation as an ALJ to the Pharmacy Board.

The Board continued this matter until the Pharmacy Board designated the Medical Licensing Board as the ALJ.

### CONSENSUS

**Leslie Renfro, M.D.** – Dr. Renfro appeared before the Board regarding a positive response on her residency renewal permit application and was represented by Counsel Fred Vaiana.

Dr. Renfro pled guilty to the offense of OWI, a class A misdemeanor. Her BAC was .204

She completed all recommendations of the AAID Destructive Decision panel; attended alcohol evaluation and followed their treatment recommendations. She has not consumed alcohol since this incident.

She voluntarily enrolled at the Indiana School of Medicine Counseling and Wellness Center and is under the supervision of Suzanne Kunkle, M.D.

After discussion the Board moved to APPROVE Dr. Renfro's renewal application.

Barai/Allen, 5/0/0  
Motion carries

### **ADMINISTRATIVE HEARINGS**

The following hearing was continued:

**Patrick Joseph Cadigan, M.D., License No. 01066319A, Cause No. 2010 MLB 0008**

**Glenn Ballengee, D.O., License No. 02000654A, Cause No. 2010 MLB 0013**

Respondent did appear in person and was not represented by counsel regarding a Petition for Summary Suspension scheduled before the Board. The State of Indiana was represented by Elizabeth Kiefner-Crawford, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D.,

A settlement agreement between the Respondent and the Attorney General's Office was presented to the Board. The settlement agreement included SUMMARY SUSPENSION for a period of ninety (90) days.

After reviewing the settlement agreement and taking its file into consideration, the Board moved to APPROVE the settlement agreement.

Holt/Smirz, 4/0/0  
Motion carries

**Derrick D. Jeter, M.D., License No. 01041204A, Cause No. 2005 MLB 0005**  
Respondent did appear in person and was represented by counsel Robert Saint regarding a Motion to Reconsider scheduled before the Board. The State of Indiana was represented by Thomas McGee, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D., Bharat Barai, M.D.

The State filed a Motion to Dismiss.

The Board heard both sides on the Motion to Dismiss.

After having considered the evidence presented and taking its file into consideration the Board moved to DENY the Motion to Dismiss.

Smirz/Barai, 5/0/0  
Motion carries

The Board heard further information regarding the motion to reconsider the Board's decision from the June 23, 2010 meeting.

After having considered the evidence presented and taking its file into consideration the Board moved to DENY the Motion to Reconsider.

Allen/Smirz, 4/0/1 with Dr. Barai abstaining  
Motion carries

**Michael R. Johnson, M.D., License No. 01035838A, Cause No. 2001 MLB 0012**

Respondent did appear in person and was not represented by counsel regarding a Request to Withdraw Order of Probation scheduled before the Board. The State of Indiana was represented by Thomas McGee, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D., Bharat Barai, M.D.

Dr. Johnson is in compliance with the terms of his probationary order.

He took and passed the SPEX in 2005 and has done over 100 hours of CME's each year.

He last practiced in 2002 and has done the following to keep current with practice and theory:

- CME's
- Has been shadowing two Ophthalmologists since 2007
- Returned to school and obtained his Masters in Public Health
- Took a course on Cataracts

After having considered the evidence presented and taking official notice of its file in this matter the Board moved to WITHDRAW the Order of Probation.

Smirz/Holt, 5/0/0  
Motion carries

**Michael T. Rogan, M.D., License No. 01065087A, Cause No. 2008 MLB 0018**

Respondent did appear in person and was not represented by counsel regarding a Petition for Modification of Probation scheduled before the Board. This matter was tabled at the May 2010 meeting. The State of Indiana was represented by Thomas McGee, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D., Bharat Barai, M.D.

Dr. Rogan submitted letters of support from his treating Psychiatrist and ISMA.

He also submitted a letter from his new supervisor stating that he is willing to do anything the Board requests concerning Dr. Rogan's probation.

Dr. Rogan is requesting that paragraph 2 in the Terms and Conditions be deleted. It states:

Term 2(e) of the April 7, 2008, Decision on License Reinstatement Application requires that:

“Respondent may only work for CMS (Correction Medical Services) without permission from the Board.”

After having considered the evidence presented and taking official notice of its file in this matter, the Board moved to APPROVE Dr. Rogan’s modification request to delete 2 (e) from his probationary order.

Allen/Barai, 5/0/0  
Motion carries

**Gregory Lee Spangler, M.D., License No. 01028174A, Cause No. 2010 MLB 0010**

Respondent did appear in person and was represented by counsel Barclay Wong regarding an Extension of Summary Suspension scheduled before the Board. The State of Indiana was represented by Elizabeth Kiefner Crawford, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D.

A settlement agreement between the Respondent, his counsel and the Attorney General’s Office was presented to the Board. The settlement agreement included an extension of SUMMARY SUSPENSION for a period of ninety (90) days.

After reviewing the settlement agreement and taking its file into consideration the Board moved to APPROVE the settlement agreement.

Smirz/Holt, 4/0/0  
Motion carries

**Kamal Tiwari, M.D., License No. 01034945A, Cause No. 2010 MLB 0014**

Respondent did not appear in person but was represented by counsel Arend Able regarding a Petition for Summary Suspension scheduled before the Board. The State of Indiana was represented by Elizabeth Kiefner Crawford, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D., Bharat Barai, M.D.



Mr. Able submitted a Motion to Continue regarding this matter. He stated he is requesting a continuance due to the lateness and lack of notification.

Ms. Kiefner Crawford responded that according to Law; IC 25-1-9-10 (c)(1)(2) states:

(c) After a reasonable attempt is made to notify a practitioner under subsection (b):

(1) a court may not stay or vacate a summary suspension of a practitioner's license for the sole reason that the practitioner was not notified; and

(2) the practitioner may not petition the board for a delay of the summary suspension proceedings.

After having considered the evidence presented and taking official notice of its file in this matter the Board moved to DENY the Motion to Continue.

Holt/Barai, 5/0/0  
Motion carries

The Board proceeded with the hearing. The following were sworn in as witnesses for the State:

- Madeline Kuzma, Drug Enforcement Administration
- Glenn Ballengee, D.O.
- Brad Strausburg, M.D.
- Patient A
- Patient B
- Kimberly Mosley, R.N., N.P.

The following was sworn in as a witness for the Respondent:

- Jeremy Tempel, Esq.

The Board heard testimony from all seven (7) witnesses.

After having considered the evidence presented, testimony for the witnesses and taking official notice of its file in this matter the Board moved to DENY the motion for a Summary Suspension.

Holt/Smirz, 4/0/1, with Dr. Barai abstaining  
Motion carries

The Board further moved to set this matter for hearing in August 2010.

Barai/Allen, 5/0/0  
Motion carries

## **DISCUSSION**

Recommendations for General Assembly: Mr. Huddleston informed the Board that he met with Deputy Director, Lisa Bentley and Kristen Kelley and discussed the following recommendations that he would like to promote at the next legislative session.

- Investigators – a percent of the medical renewal fees will go directly to a fund that will be used to hire investigators. This will be a supplement to the AG's office, not a replacement. The private investigator would need to turn over all information to the AG's office to proceed with a disciplinary matter.
- Reentry to practice – a percent of the medical renewal fees will go into a fund to work with IUSOM to provide a start up program for those physicians that have been out of practice for a certain period of time. The physician attending the program will be responsible for partial fees.
- Citation Program – the Board would have the option of issuing citation letters or fines to those that have committed minor violations of the Medical Practice Act. Those citations would not be reported to the National Practitioner Databank. The physician would have the opportunity for a hearing before the Board if they did not want to pay the fines. This money would also be deposited into the investigators' fund .

Michael Rinebold indicated that ISMA is on board with all of the above. Steve indicated that he will try to get a meeting scheduled with the Governor's Office to discuss these proposals.

New Laws – Mr. Schmidt informed the Board of two new laws that went into effect July 1, 2010.

- IC 25-1-7-14 allows the Board to file a complaint with the AG's office on an unlicensed person practicing as a physician. The AG's office has the authority to issue a cease and assist order.
- IC 42-6-14 sec 10, under Health Records states that the Board shall fine everyone that they discipline \$5.00, payable to the Attorney General's Office. This money goes to a fund to help store/maintain abandoned health records, which will be overseen by the AG's office.

## **REVIEW OF INITIAL/RENEWAL APPLICATIONS**

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Bharat Barai, M.D., Lynda Smirz, M.D.

The Board reviewed the positive response information on the following applicants and approved them for licensure: Allen/Smirz, 5/0/0 Motion carries

Nadine Allen, M.D.  
Joseph Kamaka, M.D.  
John Stephens, M.D.

The Board reviewed the positive response information on the following applicants and requested them to appear before the Board: Smirz/Barai, 5/0/0 Motion carries

Keith Kessler, M.D.

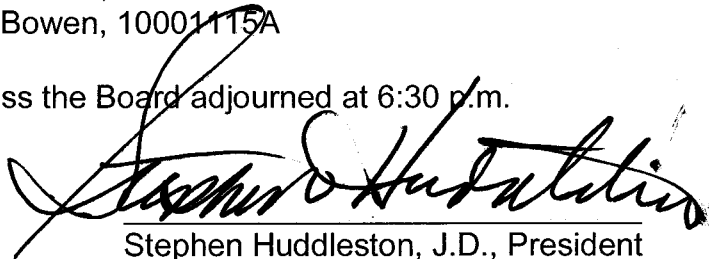
## **PHYSICIAN ASSISTANT PRESCRIPTIVE AUTHORITY APPLICATIONS**

The Board reviewed and approved the following Physician Assistant Prescriptive Authority applications: Allen/Smirz, 5/0/0 Motion carries

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D., Bharat Barai, M.D.,

Trisha Biljanic, 10001063A  
Larry Foster, 10000772A  
Sara Siefert, 10001188A  
Jason Kolkmeier, 10000717A  
Kelly Fisher, 10001089A  
Andrew Lovell, 10001090A  
Keli Ferguson, 10001097A  
Jayson Hartman, 10001104A  
Leah Fleetwood, 10001085A  
Michelle Bowen, 10001115A

There being no further business the Board adjourned at 6:30 p.m.



Stephen Huddleston, J.D., President

Donald Vennekotter, M.D., Secretary